

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKEDWIN MALDONADO,
Plaintiffv.
OFFICER JOHN GUNSETT, et al.,
DefendantsORDER

21 CV 3719 (VB)

On January 24, 2022, the Court received two documents from plaintiff labeled as the “second amended complaint;” one “second amended complaint” is attached to this Order, and the other “second amended complaint” has been separately docketed. For the reasons stated below, the Court will disregard the attached document and treat the separately docketed second amended complaint as the operative second amended complaint in this action.

On November 10, 2021, the Court directed the Attorney General to ascertain the identities of the thirteen John and Jane Doe defendants plaintiff sought to sue in his amended complaint. (Doc. #9). The Court also ordered that within thirty days of receiving this information, plaintiff must file a second amended complaint with the full names of the John and Jane Doe defendants identified by the Attorney General.

After the Attorney General updated the Court it was able to identify some, but not all of the John and Jane Doe defendants, the Court entered an Order dated January 12, 2022, directing plaintiff to file a second amended complaint containing the full names of the newly-identified John and Jane Doe defendants, as well as any additional identifying information or descriptive details regarding the remaining, unidentified John Doe defendants. (Doc. #15).

The separately docketed second amended complaint contains the full names of the John and Jane Doe defendants identified by the Attorney General, as well as the additional descriptive

details ordered by the Court. The attached document, by contrast, contains the full names of the John and Jane Doe defendants identified by the Attorney General, but not the additional descriptive details regarding the remaining, unidentified John Doe defendants.

In light of the above, it appears the attached document was drafted after plaintiff received the Attorney General's letter identifying certain of the John and Jane Doe defendants but before the Court's January 12, 2022, Order directing plaintiff to also include in the second amended complaint additional identifying details regarding the remaining, unidentified John Doe defendants.

Accordingly, it is HEREBY ORDERED that the separately docketed second amended complaint shall be considered the operative second amended complaint in this action. The Court shall disregard the second amended complaint attached to this Order.

Plaintiff is reminded to address all future correspondence to the Pro Se Intake Unit at the following address:

United States District Court
Pro Se Intake Unit
300 Quarropas St.
White Plains, NY 10601

The Court will not consider any future correspondence from plaintiff mailed directly to Chambers.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

Plaintiff also must notify the Court in writing if plaintiff's address changes, and the Court may dismiss the action if he fails to do so.

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: January 26, 2022
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Edwin Maldonado

Write the full name of each plaintiff.

No. _____
(To be filled out by Clerk's Office)

-against-

Gunsett, 21 Civ. 3719 (VB)

SECOND AMENDED
COMPLAINT
(Prisoner)

Do you want a jury trial?
 Yes No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

Violation of my federal constitutional rights

Other: 8th Amendment

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Edwin

First Name

Middle Initial

Maldonack

Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Mid-state Corr. Fac.

Current Place of Detention

P.O. Box 2500

Institutional Address

Marcy

County, City

N.Y.

State

13403

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

Pretrial detainee

Civilly committed detainee

Immigration detainee

Convicted and sentenced prisoner

Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Gerard	Guiney	
D.O. of Security (2005) Green-Haven		
Current Job Title (or other identifying information)		

Current Work Address		
1220 Washington Ave	Albany	NY
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Evelyn	Diaz	
C.O. Evelyn Diaz J-Block Officer		
Current Job Title (or other identifying information)		

Current Work Address		
Green Haven Corr. Fac.	594 Route 216	
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Floyd	Norton	Disciplinary Lt. (Captain Floyd Norton)
Captain Floyd Norton		
Current Job Title (or other identifying information)		

Current Work Address		
Green Haven Corr. Fac.	Route 216	
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Amanda	Saunders	Disciplinary Officer (June 18, 2008)
Retired. C.O.		
Current Job Title (or other identifying information)		

Current Work Address		
DCCS 1220 Washington Ave		
County, City	State	Zip Code

Albany	NY	12224
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V. STATEMENT OF CLAIM

Place(s) of occurrence:

Green Haven Corr. Fac.	C 10 YARD	5-Block
(initial Gang Assault)	STU Shower Admin Officer Course	Cell Loc.
2005 Feb 1 st	After Month of 2005	Month of May 2018 (Jan 7 th 2018 - Aug 2018)

Date(s) of occurrence:

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

In the Beginning of 2005 - G-Block Officer Miller, had officers, illegally search HARVASS, Threaten to beat me up if I talk back. I was then transferred to H-Block where I was beaten by officers and watch by a Sergeant (Feb 1st, 2005) Incident. From H-Block to STU I was beaten Face First through every Gate, while Known Gang Members White Knight Scream Racial Slurs C.O. Maligen. In the month of 2005 while in STU Officer Gunset physically and sexually assaulted Plaintiff in shower with another officer and Sergeant. Plaintiff return to Green Haven 2018 after numerous letters to Deputy of Mental Health Ms. Medbury and to Dept of Security Anthony C. Russo, Explaining the assault and separation from C.O. Gunset. Green Haven placed Plaintiff on the Draft. After numerous of letter to the Administration of Greenhaven, stating I fear for my life, Because of C.O. Gunset and Known Gang Members who work at Green-Haven (White Knights) Racially Motivated Skin Head Correctional Officers. In the Month of MAY 2018, I was placed on transfer. But After a week I was taken off transfer, and told to get my property from Reception Area, where C.O. Gunset is known to work at. He Threaten Plaintiff along with Sergeant Rose, for the 2005 Assault while at Reception a few days later from receiving property, Plaintiff was notified to return back to housing location Because Cell was

(Cont.) PAGE 5

Plaintiff Sergeant Rose inform Plaintiff that cell was burn because Plaintiff refused sexual acts with him Sergeant and inmate, who worked as porter. Prior to cell being burn Sergeant Rose made sexual advances to Plaintiff causing to his cell, and making Plaintiff pull his pants down and touch penis. Sergeant Rose, placed Saboxin and K2 drugs on Plaintiff gate, for complying his request. Stated to Plaintiff I want you to work as a porter in I.C.P. Area as upstairs in J-Block. C.O. Evelyn Diaz J-Block steady officer witness Sergeant take Plaintiff upstairs to I.C.P along with another inmate who Plaintiff later had fight for refusing to have sex with him and Sergeant Rose, after going to I.C.P stop sing and having fingers placed in buttocks of Plaintiff. Inmate forced himself inside Plaintiff while Sergeant Rose watch then did the same acts while inmate watched out. Plaintiff ran away from I.C.P area, back to lock location TR, I.C.P Block first fl. After Plaintiff cell was burnt, Sergeant Rose ordered inmate to attack Plaintiff with weapon, which was later found because Plaintiff told another area Sergeant to search the inmate who worked for Sergeant Rose. Plaintiff was transferred to A-Block, and his property was taken to Reception Area (where C.C. Gunset worked and made inmates steal Plaintiff property and label him (Plaintiff) a snitch.) On June 17, 2018, Plaintiff was placed in keep-lock recreation, where I.C.P inmate was placed also to attack Plaintiff. Then officers pepper sprayed inmate. Transfer him Plaintiff to E-Block. On June 18, 2018 Plaintiff was sent to disciplinary hearing and forced to fight inmate from I.C.P. He was assaulted by on June 17, 2018 in C.P Block (A-Block). Officers yelled out Steele Cage Match screen with Disciplinary Lieutenant Floyd Norton (who is now Captain Floyd Norton) McDonald is a DOT, beat him up. Pepper sprayed by C.O. Amanda Saunders eye-glasses taken out of Plaintiff's pocket and smashed on floor. Plaintiff then taken to SHU Beatin by C.O. the who way to SHU.

NOTE: Hon. Vincent Briceetti

Assistant Attorney General Bruce J. Turkle in response to The Valentin Order, stated we have been unable to identify the lower ranking John Does referenced in 110, 2, 3, 4, 5, 6, and 7 above. DCCS does not routinely maintain staffing information dating back to 2005 and we are informed that it has been destroyed in the ordinary course of business.

Fond of Report
Eckin McDonald
Plaintiff
S. M. M.

Deary,
Feb. 1, 2005 Hon. Vincent Briceleti

73 Officer H. Block Known White Knight Gang Members
who ASSAULTED me, for C.O. Miller in G-Block

Next Day

while urine Test was being Administered
Plaintiff started urinating Blood.) Sergeant on Duty called
ordered nurse to Cell of Plaintiff, who stated
I can't Move it hurts everywhere. It was determine
Plaintiff should be moved to outside hospital Mt. Vernon
See Medical Records, Fractured Ribs bruised lung.

After Feb. 1st 2005 Assult on Plaintiff

A couple of months later, C.C. Gunset ordered Plaintiff to the Shower, and ASSAULTED Plaintiff
Along with another officer and Sergeant, physically and sexually
ASSAULTED Plaintiff

1# Plaintiff suffered Deprivation of Water
Food and Showers. I.G. came to Plaintiff and warn Plaintiff
not to submit a CIVIL LAWSUIT, or be subjected to a
New Criminal charge against C.C. Gunset.

2# Plaintiff WAS A victim of sexual ASSAULT.
told Family Members of sexual and physical ASSAULT.
Once Plaintiff WAS TRANSFERRED BACK TO Green-Haven
2018, Plaintiff NOTIFY Dep. of Security to Be removed from
Facility in Fear for his life and sexual ASSAULT By C.C.
Gunset.

Date JAN. 14, 2022

End of Report
x Edwin Maldonado
Edwin Maldonado

PAGE 5

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

Sustain injuries to Head, Face, arms, legs, lacerations
Along with Swollen neck injuries, extreme back pain
Mental and Emotional stress nightmares. loss of sleep
that lead to daily physician Medication for past 3 years
(2008 incident) Medication for 2005 incident from Incident
to present day

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

\$ 1,000,000 (one million) Compensation
\$ 1,000,000 (one million) Punitive
\$ 1,000,000 Emotional Stress

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Jan. 14, 2022

Dated

Edwin

First Name

MID-STATE CONV. FAC.

Middle Initial

Plaintiff's Signature

Edwin Maldonado

Last Name

Prison Address

P.O. Box 2500

MI.

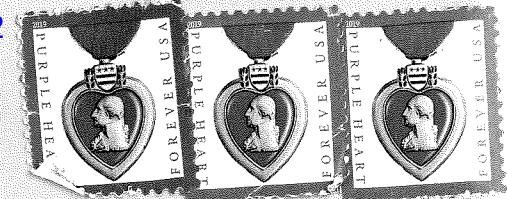
3403

County, City

State

Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: JAN. 19, 2022



10: Chambers of Vincent L. Briccetti
United States District Judge
United States Capitol
300 Quarropas St.
White Plains, N.Y.
10601

get-mail

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APPROVED By D. Kilmer
D. Kilmer

